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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,689	10/13/2000	William J. Bussick	0112300/474	7705

29159 7590 08/27/2002

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EXAMINER
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JONES, SCOTT E

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/687,689	BUSSICK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Scott E. Jones	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 July 2002.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4,7,9,10,12,13,15,17,19-23,25-32,34 and 35 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4, 7, 9-10, 12-13, 15, 17, 19-23, 25-32, and 34-35 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 October 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                  4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                  5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                  6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to the after final amendment filed on July 29, 2002 in which applicant's amend claims 1, 4, 12, 15, 17, 31, 34, 35, cancel claims 5, 6, 8, 33, 36, and respond to the claim rejections.
2. The finality of Office Action, Paper No.10 mailed May 30, 2002, is hereby withdrawn in view of the new ground of rejection set forth below.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7, 9-10, 12-13, 15, 17, 19-23, 25-32, and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Moody (U.S. 5,823,873).

Moody discloses a method of playing electronic video poker games wherein a player is dealt at least two rows of cards, one row of five cards is dealt face up (five card draw poker hand-first set) and one row of five cards is dealt face down (five card stud poker hand-predetermined symbol replacements). In one embodiment, Version #1-Super Poker I, the player can select none, one, or more of the face up cards to be held. Replacement cards for those not held are preselected using the cards from the five card stud poker hand that are vertically aligned with the cards from the five card draw poker hand(s). In another embodiment, the cards that are held are duplicated from the first row to all of the other rows. Replacement cards for the non-selected cards are then randomly dealt. The replacement cards dealt (randomly generated) into the first row for the cards not held is synonymous

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to replacing symbols on a slot machine reel or row by an additional spinning of the reels.

Additionally, one or more cards may be used or designated as wild cards in each of the embodiments described above (Column 1, lines 30-41, Column 2, lines 17-Column 13, line 5).

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-4, 7, 9-10, 12-13, 15, 17, 19-23, 25-32, and 34-35 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Scott E. Jones  
Examiner  
Art Unit 3713

SEJ  
sej  
August 16, 2002

*V. Martin Wallace*  
VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700